

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

06 GARY C. TANNER,) CASE NO. C07-0713-JCC-MAT
07 Plaintiff,)
08 v.) ORDER RE: REQUEST FOR
09 DR. KENNEY, et al.,) EXTENSION AND DEFENDANTS'
10 Defendants.) ANSWER

)

12 Plaintiff filed a motion for a sixty-day extension of time (Dkt. 25), to which respondents
13 object (Dkt. 27). Also, in response to an Order of the Court, respondents submitted an answer
14 to plaintiff's amended complaint. (Dkt. 28.) Having considered plaintiff's request and
15 respondents' answer, the Court hereby finds and ORDERS as follows:

16 (1) Defendants construe plaintiff's motion as a request for an extension of time to file
17 an amended complaint. However, plaintiff has already submitted his amended complaint. (See
18 Dkt. 18.) His motion, instead, seeks a general "extension" on the proceedings in this matter, based
19 on the apparent seizure of his legal documents by staff at the Monroe Correctional Complex
20 (MCC). (Dkt. 25 at 1.) Yet, a declaration submitted by defendants from Sue Rosselet, a
21 Classifications Counselor at MCC, clarifies that the documents referred to by plaintiff, which had
22 been found in another inmate's cell, have since been returned to plaintiff. (See Dkt. 27, Ex. 1.)

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01 Moreover, at this point in time, plaintiff has no impending deadline which would warrant any
02 suspension of activity in this case. In sum, because the Court finds no basis for holding the
03 proceedings in this case in abeyance, plaintiff's motion for an extension of time (Dkt. 25) is
04 DENIED.

05 (2) As noted above, respondents submitted an answer to plaintiff's amended complaint.
06 (Dkt. 28.) However, it appears that respondents may have directed their answer towards a
07 proposed amended complaint the Court previously rejected as inadequate. (See *id.* at 1 (indicating
08 the answer responded to the proposed amended complaint filed June 18, 2007, at docket entry
09 15).) As reflected in the Court's Order directing respondents to submit an answer, the Court
10 construed the document filed by plaintiff on July 10, 2007, at docket entry 18, to constitute
11 plaintiff's amended complaint. (See Dkt. 24 at 1 and Dkt. 18.)¹ Accordingly, because it appears
12 that respondents failed to submit their answer in response to the operative amended complaint in
13 this matter, they are directed to submit an amended answer within **fifteen (15) days** of the date
14 of this Order.

15 (3) The Clerk is directed to send copies of this Order to plaintiff, to counsel for
16 defendants, and to the Honorable John C. Coughenour.

17 DATED this 5th day of November, 2007.

18 
19 _____
20 Mary Alice Theiler
United States Magistrate Judge

21 ¹ Although entitled a "Motion for Leave to File an Amended Complaint," this document
22 itself constitutes plaintiff's actual amended complaint. (Dkt. 18.) In order to avoid further
confusion, the docket will be revised to reflect the content at docket entry 18.